

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

MIKE HARRIS and JEFF DUNSTAN,
individually and on behalf of a class of
similarly situated individuals,

Plaintiffs,

v.

COMSCORE, INC., a Delaware corporation,

Defendant.

Case No. 1:11-cv-5807

Hon. James F. Holderman

Magistrate Judge Young B. Kim

PLAINTIFF JEFF DUNSTAN'S MOTION TO FILE DOCUMENTS UNDER SEAL

Plaintiff Jeff Dunstan (“Plaintiff” or “Dunstan”), pursuant to Local Rules 5.8 and 26.2 and this Court’s Case Management Procedures, hereby respectfully moves the Court for an Order granting him leave to file certain documents under seal, either in whole or in part, in conjunction with Plaintiff Jeff Dunstan’s Motion to Compel comScore, Inc. to Respond to Plaintiff’s Written Discovery. In support of this Motion, Plaintiff states as follows:

1. On October 7, 2013, and contemporaneous with this Motion, Plaintiff Jeff Dunstan filed his Motion to Compel comScore, Inc. to Respond to Plaintiff’s Written Discovery (the “Motion”) and supporting Declaration of Rafey S. Balabanian (“Balabanian Decl.”).

2. Attached to the Balabanian Decl., among other exhibits, are the following documents that comScore has marked, or quote documents marked as “CONFIDENTIAL—ATTORNEYS’ EYES ONLY” pursuant to the January 20, 2012 Protective Order entered by Magistrate Judge Kim in this case (the “Protective Order”), (Dkt. No. 72.):

- a. Exhibit 5: email correspondence bearing Bates number “CS0075487_Confidential—Attorney’s Eyes Only.htm”;

- b. Exhibit 8: email correspondence bearing Bates number “CS0049415_Confidential—Attorney’s Eyes Only.htm”;
- c. Exhibit 9: September 18th, 2013 meet-and-confer letter from Rafey S. Balabanian to Andrew Schapiro; and
- d. Exhibit 11: email correspondence bearing Bates number “CS0046036_Confidential—Attorney’s Eyes Only.pdf”.

(See Declaration of Benjamin S. Thomassen, attached at Exhibit A, at ¶ 2.)

3. The Protective Order prohibits either Party from publicly disclosing documents marked as “CONFIDENTIAL,” “CONFIDENTIAL—ATTORNEYS’ EYES ONLY,” or “Highly Confidential—Source Code.” (Dkt. No. 72, ¶¶ 7, 9.)

4. Due to time constraints, Plaintiff did not have the opportunity to work with comScore to identify which documents that comScore previously marked as CONFIDENTIAL—ATTORNEYS’ EYES ONLY should remain confidential and not publically accessible upon filing. (Thomassen Decl. at ¶ 4.)

5. Accordingly, and pursuant to the Protective Order entered in this case, Plaintiff seeks to file Exhibit Nos. 5, 8 and 11, described *supra*, ¶ 2, entirely under seal, and Exhibit No. 9 partially under seal.

6. Additionally, because the Motion and Supporting Declaration of Rafey S. Balabanian discuss—in limited detail—the contents of Exhibit Nos. 5, 8, 9 and 11, Plaintiff seeks to file the Motion and Balabanian Decl. partially under seal.

7. Pursuant to Magistrate Judge Kim’s Case Management Procedures, Plaintiff will promptly submit to Magistrate Judge Kim’s chambers in camera a sealed envelope—bearing the caption of the case, case number, the title of the motion to which the submitted confidential

information pertains, and the name and telephone number of counsel submitting the documents—unredacted copies of the Motion, Balabanian Decl., and Exhibit Nos. 5, 8, 9 and 11. (Thomassen Decl. at ¶ 5.) Plaintiff will also file redacted copies of all documents containing confidential information with the Clerk’s Office via the Court’s CM/ECF electronic filing system. (*Id.*)

WHEREFORE, Plaintiff respectfully moves the Court, pursuant to Local Rules 5.8 and 26.2 and this Court’s Case Management Procedures for an Order:

- (i) Granting him leave to file (1) Plaintiff Jeff Dunstan’s Motion to Compel comScore, Inc. to Respond to Plaintiff’s Written Discovery, (2) the supporting Declaration of Rafe S. Balabanian, and (3) Exhibit No. 9 partially under seal;
- (ii) Granting him leave to file Exhibit Nos. 5, 8 and 11 attached to the Declaration of Rafe S. Balabanian submitted in support of Plaintiff Jeff Dunstan’s Motion to Compel comScore, Inc. to Respond to Plaintiff’s Written Discovery entirely under seal; and
- (iii) Providing such other and further relief as the Court deems equitable and just.

Respectfully submitted,

MIKE HARRIS and JEFF DUNSTAN,
individually and on behalf of all others
similarly situated,

Dated: October 7, 2013

By: /s/ Benjamin S. Thomassen
One of Plaintiffs’ Attorneys

Jay Edelson
Rafe S. Balabanian
Chandler R. Givens
Benjamin S. Thomassen
EDELSON LLC
350 North LaSalle, Suite 1300
Chicago, Illinois 60654

Telephone: (312) 589-6370
jedelson@edelson.com
rbalabanian@edelson.com
cgivens@edelson.com
bthomassen@edelson.com

CERTIFICATE OF SERVICE

I, Benjamin S. Thomassen, an attorney, certify that on October 7, 2013, I served the above and foregoing ***Plaintiff Jeff Dunstan's Motion to File Documents Under Seal***, by causing true and accurate copies of such paper to be filed and transmitted to all counsel of record via the Court's CM/ECF electronic filing system, on this 7th day of October 2013.

/s/ Benjamin S. Thomassen